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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CARLOS HERNANDEZ,

Plaintiff,

vs.

RGS FINANCIAL, INC.,

Defendant.

No.

JURY DEMANDED

COMPLAINT

JURISDICTION

1. The jurisdiction of this Court attains pursuant to the FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332, and the doctrine of supplemental jurisdiction. Venue lies in the Southern Division of the Judicial District of Nevada as Plaintiff's claims arose from acts of the Defendant(s) perpetrated therein.

PRELIMINARY STATEMENT

2. This action is instituted in accordance with and to remedy Defendant's violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and of related state law obligations brought as supplemental claims hereto.

3. In 2008, Defendant initiated a campaign of abusive, unfair, unreasonable, and unlawful debt collection activity directed against Plaintiff.

4. As a result of these and other violations of law, Plaintiff seeks hereby to recover actual and statutory damages together with reasonable attorney's fees and costs.

PARTIES

5. Plaintiff, Carlos Hernandez, is a natural person who resides in Las Vegas, Nevada, and is a "consumer" as defined by 15 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by 15 U.S.C. Section 1692a(5).

6. Defendant, RGS Financial, Inc., is a foreign corporation. the principal purpose of whose business is the collection of debts, operating a debt collection agency from its principal place of business in Addison, Texas, and regularly collects or attempts to collect debts owed or due or asserted to be owed or due another, and is a "debt collector" as defined by 15 U.S.C. Section 1692a(6).

FACTUAL ALLEGATIONS

7. Plaintiff(s) repeat, reallege and assert all factual allegations contained in the preliminary statement to this Complaint and reassert them as incorporated in full herein.

8. On October 6, 2008. Defendant dunned Plaintiff for an alleged debt.

9. On October 22, 2008, Plaintiff wrote Defendant advising of his *refusal to pay* (Exhibit 1).

10. Plaintiff's written refusal to pay required Defendant to cease and desist all collection communications in accordance with FDCPA § 1692c(c):

(c) Ceasing communication - If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt.

11. Defendant received Exhibit 1 on October 27, 2008 (Exhibit 2).

12. Notwithstanding, on January 13, 2009, Defendant again dunned Plaintiff in violation of FDCPA §§ 1692c and 1692d.

13. The foregoing acts and omissions of Defendant were undertaken by it willfully,

1 maliciously, and intentionally, knowingly, and/or in gross or reckless disregard of the rights of
2 Plaintiff.

3 14. Indeed, the foregoing acts and omissions of Defendant were undertaken by it
4 indiscriminately and persistently, as part of its regular and routine debt collection efforts, and without
5 regard to or consideration of the identity or rights of Plaintiff.

6 15. As a proximate result of the foregoing acts and omissions of Defendant, Plaintiff has
7 suffered actual damages and injury, including, but not limited to, stress, humiliation, mental anguish
8 and suffering, and emotional distress, for which Plaintiff should be compensated in an amount to be
9 proven at trial.

10 16. As a result of the foregoing acts and omissions of Defendant, and in order to punish
11 Defendant for its outrageous and malicious conduct, as well as to deter it from committing similar
12 acts in the future as part of its debt collection efforts, Plaintiff is entitled to recover punitive damages
13 in an amount to be proven at trial.

14 CAUSES OF ACTION

15 COUNT I

16 17. The foregoing acts and omissions of Defendant constitute violations of the FDCPA,
17 including, but not limited to, Sections 1692c, 1692d and 1692e.

18 18. Plaintiff is entitled to recover statutory damages, actual damages, reasonable
19 attorney's fees, and costs.

20 COUNT II

21 19. The foregoing acts and omissions constitute unreasonable debt collection practices
22 in violation of the doctrine of Invasion of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865
23 *F. Supp. 1443, 1448-49 (D. Nev. 1994); Pittman v. J. J. Mac Intyre Co. of Nevada, Inc.*, 969 *F. Supp.*
24 *609, 613-14 (D. of Nev. 1997).*

25 20. Plaintiff is entitled to recover actual damages as well as punitive damages in an
26 amount to be proven at trial.

JURY DEMANDED

Plaintiff hereby demands trial by a jury on all issues so triable.

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

1. Award actual damages.
2. Award punitive damages.
3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k.
4. Award reasonable attorney fees.
5. Award costs.
6. Grant such other and further relief as it deems just and proper.

Respectfully submitted,


MITCHELL D. GLINER, ESQ.
Nevada Bar #003419
3017 West Charleston Boulevard
Suite 95
Las Vegas, NV 89102
Attorney for Plaintiff

October 22, 2008

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

RGS Financial
P. O. Box 2149
Addison, TX 75001-2149

Dear Sir:

I refuse to pay.

Carlos Hernandez

Enclosure

EXHIBIT /

596764-3
PO BOX 2149
ADDISON, TX 75001-2149



OCTOBER 06, 2008 X



ACA
The American Creditors Association
For the Protection of Creditors
and the Fairness of Credit



FINANCIAL

Phone Number: (800)-671-2975
PAY ONLINE: www.payrgs.com

12057-125

CARLOS HERNANDEZ
2580 CARNATION WAY
PAHRUMP NV 89048-5358

CLIENT	WELLS FARGO - DEPT 800 89666145304620001
ACCOUNT NO #:	596764-3
AMOUNT OWED:	\$1,712.81

DELINQUENCY NOTICE

Dear CARLOS HERNANDEZ:

RGS Financial has been assigned to collect the delinquent account listed above. This is a serious matter and requires action on your part. We would like to help you avoid further collection activity. We can do this if you pay your account as requested or contact us for other arrangements.

Depending on your circumstance, we may be able to help by offering one of our flexible payment arrangements. In order for us to help you, we need you to contact our office. Take one of the following steps:

- (1) REMIT YOUR PAYMENT IN THE ENCLOSED ENVELOPE; OR
- (2) CALL US TO EXPLORE WHAT PAYMENT ARRANGEMENTS ARE AVAILABLE TO YOU.

If you have an attorney representing you or if you have filed bankruptcy, please provide RGS Financial with the appropriate information.

Sincerely,

Felicia Cox

Toll Free (800)-671-2975

P.S. DO NOT IGNORE THIS NOTICE! WE CAN HELP YOU RESOLVE THIS IMPORTANT MATTER.

This communication is from a debt collector.
This is an attempt to collect a debt and any information obtained will be used for that purpose.
NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

DETACH HERE AND RETURN THIS PORTION WITH YOUR PAYMENT

CARLOS HERNANDEZ
2580 CARNATION WAY
PAHRUMP NV 89048-5358

IF PAYING BY VISA OR MASTERCARD, FILL OUT BELOW		
<input type="checkbox"/> VISA	<input type="checkbox"/> MASTERCARD	
CARD NUMBER	EXP. DATE	AMOUNT
SIGNATURE	MUST INCLUDE 3 DIGIT SECURITY CODE FROM BACK OF CARD	

☐ Please check here if there is a new phone # or address and enter information on reverse side.

OCTOBER 06, 2008

Payments may also be made
online at www.payrgs.com

PLEASE SEND ALL CORRESPONDENCE TO:

RGS Financial
PO BOX 2149
Addison, TX 75001-2149



CLIENT	WELLS FARGO - DEPT 800 89666145304620001
ACCOUNT NO #:	596764-3
AMOUNT OWED:	\$1,712.81

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X <u>A. Rose</u> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>
<p>1. Article Addressed to:</p> <p><u>AGS Financial</u> <u>PO Box 2149</u> <u>Addicks, TX 75801-</u> <u>2149</u></p>	<p>B. Received by (Printed Name) <u>Amarda Rose</u> C. Date of Delivery <u>10/27/08</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
<p>2. Article Number (Transfer from service label)</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7005 2570 0000 3475 7576</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

EXHIBIT 2

596764-3
PO BOX 2149
ADDISON, TX 75001-2149



FINANCIAL



Phone Number: (866)-941-8600
PAY ONLINE: www.payrgs.com

JANUARY 13, 2009

12065-3165

CARLOS HERNANDEZ
2580 CARNATION WAY
PAHRUMP NV 89048-5350

CLIENT: WELLS FARGO - DEPT 800
89666145304620001

ACCOUNT NO.: 596764-3

AMOUNT OWED: \$1,712.81

RE: 30 DAY SETTLEMENT OFFER \$1,198.97

Dear CARLOS HERNANDEZ:

RGS Financial has made several attempts to contact you to voluntarily resolve the account listed above. Ignoring this generous settlement offer will lead to further escalation and/or continued collection activity.

Please indicate your intentions and return this letter to us in the enclosed envelope or call our office at the number below to discuss your options.

- ☐ Yes, I will accept a Settlement Offer of \$1,198.97 if I pay within 30 days of the date of this letter.
- ☐ I do intend to pay my obligation voluntarily; however, I need to discuss a more flexible payment arrangement. Please call me to discuss my options at daytime number _____ or evening number _____.
- ☐ I do not intend to pay voluntarily.

We are here to help you resolve this delinquent account so please answer this letter with your intentions or call today.

Sincerely,
Lv2 - Resolution Department
Toll Free (866)-941-8600

RGS Financial accepts the following forms of payment:

1. MoneyGram (Receive Code 4290)
2. Phone Payment (Debit Card/Credit Card or Check)
3. On-Line Payment (www.PAYRGS.com)
4. Check or Money Order

This communication is from a debt collector.

NOTICE-SEE REVERSE SIDE FOR IMPORTANT INFORMATION

DETACH HERE AND RETURN THIS PORTION WITH YOUR PAYMENT

CARLOS HERNANDEZ
2580 CARNATION WAY
PAHRUMP NV 89048-5358

JANUARY 13, 2009

Payments may also be made
online at www.payrgs.com

CLIENT: WELLS FARGO - DEPT 800
89666145304620001

ACCOUNT NO.: 596764-3

AMOUNT OWED: \$1,712.81

SIF OFFER: \$1,198.97

IF PAYING BY VISA OR MASTERCARD, FILL OUT BELOW		
<input type="checkbox"/> VISA <input type="checkbox"/> MASTERCARD		
CARD NUMBER	EXP. DATE	AMOUNT
SIGNATURE		MUST INCLUDE 3 DIGIT SECURITY CODE FROM BACK OF CARD

☐ Please check here if there is a new phone # or address and enter information on reverse side.

PLEASE SEND ALL CORRESPONDENCE TO:

RGS Financial
PO BOX 2149
Addison, TX 75001-2149

EXHIBIT 3